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**TITLE 5
CIVIL - FAMILY LAW**

**RULE 5.0005
FACSIMILE TRANSMISSION FILINGS**

Pursuant to California Rules of Court, Rule 2001 et. Seq., a party may file by fax directly with the appropriate court location using the facsimile number listed below. The first sheet transmitted shall be the Judicial Council Facsimile Transmission Cover page followed by any special handling instructions. The document to be filed by the Court shall include the words "BY FAX" and if represented by an attorney, the attorney shall also include his or her facsimile machine telephone number, designated as a "fax" number.

Visa, MasterCard, or Discover Card accounts may be used to charge fees on facsimile filings or any attorney may establish an account with the court before filing by direct fax. For information regarding establishing an account with the court, contact the clerk's office in the Family Law Division.

<u>Court Name:</u>	<u>Court Fax Number</u>
Family Law Branch 4175 Main Street Riverside, CA 92501	(951) 955-6959
Civil Branch 4050 Main Street Riverside, CA 92501	(951) 955-1751
Indio Branch 46200 Oasis Street Indio, CA 92201	(760) 863-8707 (760) 863-8708
Blythe Branch County Administrative Center 265 N. Broadway Blythe, CA 92255	(760) 921-7941
Hemet Branch 880 N. State Street Hemet, CA 92543	(951) 766-2505

Southwest Justice Center
30755-D Auld Road
Murrieta, CA 92563

(951) 304-5170

Temecula Branch
41002 County Center Drive
Temecula, CA 92591

(951) 600-6435

(Added 4-25-98, effective 7-1-98; amended 10-17-98, effective 1-1-99; amended 1-1-03; area code corrected 1-1-05; phone number correction 1-1-06)

RULE 5.0010
OSC/MOTION PROCEDURE

- A. The Commissioner hears matters as a Temporary Judge pursuant to stipulation by both parties. The stipulation is implied in default and uncontested matters and when attorneys proceed without objection. Parties in contempt hearings and parties without attorneys will be asked on the record if they so stipulate.
- B. Points and Authorities. Points and Authorities will not be required in support of an OSC/Motion in Family Law Act and related matters, unless specifically requested by the Court. When so requested, they shall be submitted directly to the Court and not filed with the clerk.
- C. In all OSC/Motions involving child support, spousal support, attorneys fees or costs (except contempt), the parties are required to serve on the opposing party (and bring to Court) completed Income and Expense Declaration forms; their last 3 pay stubs; their state income tax returns for the past 3 years
- D. Conduct of Hearing. Except upon a showing of good cause, all OSC/Motions, except OSC RE: Contempt, will be heard by declaration. Generally, oral testimony will not be received in OSC/Motion hearings. Evidence will be submitted through declarations under penalty of perjury. The Court will retain discretion as to whether such oral testimony will be heard.
- E. ORDERS
 - 1. A formal order shall not be required on an OSC/Motion, unless specifically requested by counsel or directed by the Court. The moving party shall prepare a Findings and Order after Hearing utilizing Judicial Council Form FL-340 within 10 days of the hearing. A copy shall be served by mail upon the opposing party. The opposing party shall have 10 days from mailing to

notify the moving party whether or not the proposed order is approved as to form.

The opposing party shall state any reasons for disapproval.

Failure to notify the moving party within the time required is an approval as to form.

2. The moving party shall promptly transmit the proposed order to the court together with a summary of any responses of the other parties and a proof of service of the proposed order.
3. If the moving party fails to prepare and submit a proposed order, any other party may do so.
4. The minute order of the Court shall be the order of the Court for enforcement purposes, unless otherwise specified. An order after hearing will be required on Domestic Violence related restraining orders when enforcement of orders by law enforcement will be requested.
5. When a variance exists between a formal order and the minute order, neither will be corrected, other than for a clerical error, except upon motion, stipulation of counsel or order of the Court.

(Adopted 1-1-86; amended 10-27-90, effective 1-1-91; amend. 10-21-95, eff. 1-1-96; amend. 4-25-98, eff. 7-1-98; amended 4-28-06, effective 7-1-06)

RULE 5.0020 **OSC/MOTION - SERVICE**

Service. A conformed copy, bearing the clerk's filing stamp endorsement, of an OSC/Motion shall be served on the opposing party as required by law

(Adopted 1-1-86; Amended 4-25-98, eff. 7-1-98)

RULE 5.0025 **OSC/MOTION - CONTINUANCE**

- A. Continuance. Requests for a continuance may be by written stipulation and must be received three days prior to the hearing date. Such requests may be made by oral stipulation or by order of the court upon a showing of good cause. When sufficient

time permits, the date to which the matter may be continued shall first be reserved with the clerk. A maximum of two continuances will be permitted.

- B. Lack of Service. The Court may grant an order continuing an OSC/Motion which has not been served. The "Order Continuing Hearing Date for Order To Show Cause" must be served with the moving papers.

(Amended 3-6-87, effective 5-6-87; amended 3-17-89, effective 5-15-89; amended 5-20-05, effective 7-1-05)

RULE 5.0030
OSC/MOTION - DECLARATIONS

(Deleted 4-25-98, eff. 7-1-98)

RULE 5.0035
OSC - TEMPORARY RESTRAINING ORDER - CUSTODY OR RESIDENCE

(Deleted 4-25-98, eff. 7-1-98)

RULE 5.0040
RESTRAINING ORDERS - DOMESTIC VIOLENCE

- A. General. A temporary restraining order may be granted upon declaration showing reasonable proof of a recent act or acts of actual violence resulting in physical injury or threat of personal injury, for the purpose of preventing domestic violence and assuring a period of separation of the parties involved.
- B. Without Notice. A temporary restraining order issued without notice shall be without prejudice pending noticed hearing.
- C. Duration. Said temporary restraining order shall remain in effect not to exceed an aggregate of 30 days from the date signed, unless otherwise extended by the Court or stipulated to by the parties.
- D. Hearing. A hearing must be had as soon as Court's business will permit, but no later than 20 days (25 days good cause appearing) from the date the temporary restraining order is granted.
- E. Setting. This being a special proceeding, it shall be set on the on such days and times as set forth in the Apportionment of Court Business Order.

(Adopted 1-1-86; Amended 11-7-92, eff. 1-1-93; amend. 4-15-98, eff. 7-1-98; amended 4-28-06, effective 7-1-06)

RULE 5.0041
REQUESTS TO DISMISS ENTIRE ACTIONS

The moving party is required to include a declaration upon submittal of a Request for Dismissal of the Entire Action on any case where a Domestic Violence Restraining Order has been issued.

- I. Declarations regarding Requests for Dismissals shall be required on all Domestic Violence and Family Law cases where a Domestic Violence Restraining order has been issued, regardless of whether or not the dismissal is signed by both sides, or if the Respondent has or has not made an appearance on the case.
- II. Upon receipt of the Declaration and Request for Dismissal, the clerk shall forward the documents to the assigned judicial officer according to established procedures.
- III. Upon judicial determination, the matter shall either be dismissed or set for hearing as appropriate. If the matter is set for hearing, the clerk shall give notice to both sides.

(Adopted 5-20-05, effective 7-1-05)

RULE 5.0045
DEFAULTS OR UNCONTESTED DISSOLUTIONS

(Deleted 4-25-98, eff. 7-1-98)

RULE 5.0050
FAMILY LAW MANDATORY SETTLEMENT CONFERENCES AND TRIALS

- A. Failure of one party to appear at the MSC may result in the striking of the At-Issue and/or the imposition of sanctions.

No appearance by either side at the MSC will result in placing the trial off calendar and striking the At-Issue Memorandum.

- B. Sanctions. Unless good cause is shown, sanctions will be imposed against the attorney and/or litigant for failure to:

1. Appear timely at the MSC.
2. Comply with required preparation for the MSC.
3. Submit all required documentation at the MSC.

The amount and nature of sanctions, if imposed, are within the discretion of the Court.

Attorney fees may also be imposed at the discretion of the Court.

(Adopted 1-1-86; Amended 3-6-87, eff. 5-6-87; amended 12-1-87, eff. 1-1-88; amended 4-25-98, eff. 7-1-98; amended 3-17-89, eff. 5-15-89 amended 10-27-90, eff. 1-1-91)

RULE 5.0053

TRIAL RULES AND PROCEDURES

Trial Rules and Procedures shall be adhered to countywide except as modified on record by the court.

No later than 10 days before the Trial Readiness Conference all attorneys and self-represented parties shall:

1. Meet and confer and prepare:
 - (a) A list of disputed issues, with a short explanation of each;
 - (b) A statement of facts from each side; and
 - (c) A signed stipulation as to undisputed issues of fact and law, and exhibits, which can be admitted without foundation.
2. Each party must provide to the court at the time of the Trial Readiness Conference, the following:
 - (a) Current Income and Expense Declarations including the last three pay stubs, the last two years income tax returns, corporate income tax returns if applicable, 1099's for the last two years and any and all information tending to assist the court in deciding questions of income.
 - (b) Copies of any cases the parties wish the court to read prior to trial.
 - (c) On one sheet of paper, set out how the property and debts should be divided and how any equalization payment should be handled.
 - (d) A list of witnesses and a short statement as to what they will testify to.
 - (e) Items (a), (b), and (c) from paragraph #1 above.
 - (f) All of the above items shall be submitted to the clerk and marked received.

Necessary items will be filed by the court on the date of trial.

3. All parties and their counsel shall be present at the Trial Readiness Conference. The Court will not accept a "Traditional Trial Brief" in lieu of the items required by this order, but such a brief may be submitted in addition if desired.
4. All exhibits shall be pre-marked by attorneys and exchanged before the day of trial.
5. Reporter fees shall be paid by each party prior to 12:00 noon on each day of trial.
6. Trials shall be continued only by the judicial officer upon a motion and a showing of good cause. If parties are not prepared to go forward on the date of the Trial Readiness Conference and there is no good cause to continue, the matter will be taken off calendar and the At-Issue stricken.
7. Failure of one party to appear at the Trial Readiness Conference, or failure to comply with these rules, without good cause will likely result in one or more of the following sanctions: (a) Striking that party's pleadings, such that the case can proceed by default; (b) Evidence or issue sanctions; or (c) Monetary sanctions.
8. This document incorporates by reference the minutes of the court of the date this matter is set for trial and serves as notice of trial pursuant to CCP §594 (a) and (b).
9. FAILURE to notify the court if the case has been settled prior to the trial date will still result in payment of the costs for the Court Reporter. If applicable, notification of settlement should be presented to the court no later than Friday preceding the trial.]

(Adopted 5-20-05, effective 7-1-05)

RULE 5.0054
MANDATORY PARENT EDUCATION CLASS

(Adopted 6-19-06, effective 7-1-06; deleted 10-28-06, effective 1-1-07 [see Rule 5.0055])

RULE 5.0055
MEDIATION OF CUSTODY AND VISITATION

- A. Parties requiring mediation of custody/visitation issues will be assigned an appointment time/date prior to the court date and shall complete one mediation session prior to the court date.
- B. Continuity. Continuity will be sought through the use of the same mediator throughout the proceedings.

- C. Mediators. Mediators are officers of the Court, and shall be available to testify at the request of a party or their counsel without the need for a subpoena. Requests for a mediator to testify shall be made in writing and shall be submitted to the Supervising Mediator at least 5 court days before the hearing. This time period can be shortened if the court determines there is good cause. All parties and attorneys will be notified if the mediator is not available.
- D. Disclosure. Attorneys and parties are encouraged to disclose full information to the mediator in person and in writing. A party must appear personally at the mediation conference. Good cause shown in advance of the scheduled conference may permit a party to participate telephonically. Children shall not be interviewed telephonically unless approved by the Supervising Mediator.
- E. Confidentiality. Mediation conferences are confidential only to the extent that disclosure of the information received is limited to those who have the right to know. Confidentiality is important to promote full and free disclosure of information necessary for settlement. It exists with regard to information divulged among the mediator, the parties, and attorneys; therefore, each must cooperate in this regard and not disclose confidential information to outsiders. This confidentiality will not preclude the mediator from making a recommendation to the Court if the parties fail to reach an agreement.
- F. Agreements. An agreement shall be reduced to writing, in order form and signed by the parties.
- G. Recommended Order. Where the mediator concludes that the parties are near agreement, or that certain disposition is presently appropriate, the mediator will submit a proposed order to the Court.
- H. Adoption of Recommended Order. Upon review and if appropriate, the Court will sign the recommended order.
- I. Failure of Mediation. The Court will be advised when one or both parties fail to keep an appointment with the mediator, and when mediation accomplished nothing worthwhile.
- J. Mandatory Parent Education Class. Parents shall be ordered to attend a Parent Education Orientation Class where custody and/or visitation is raised as an issue for the first time in the case, or the Court may order them to attend the class at any time, at the Court's discretion. Failure to attend the Parent Education Orientation Class or to complete the class in order to proceed to mediation may result in sanctions.

(Adopted 1-1-86; Amended 3-6-87, eff. 5-6-87; amended 12-1-87, eff. 1-1-88; amended 3-17-89, eff. 5-15-89 amended 10-27-90, eff. 1-1-91; amend. 10-23-93, eff. 1-1-94; amended 10-21-95, effective 1-1-96; amended 4-20-96, effective 7-1-96; amended 10-

19-96, effective 1-1-97; amended 4-25-98, effective 7-1-98; amended 10-17-98, effective 1-1-99; amended 4-27-01, effective 7-1-01; amended/corrected 7-18-03; amended 10-28-06, effective 1-1-07)

RULE 5.0056
PEREMPTORY CHALLENGE OF A MEDIATOR

Each party has the right to one peremptory challenge of a court mediator.

The party wishing to exercise the challenge shall file it with the Mediation Department and personally serve the opposing party no later than three court days prior to the mediation session. A peremptory challenge must be filed prior to the mediator hearing any issue in the case. The peremptory challenge will be granted or denied by the Supervising Mediator, or designee.

The parties shall report to mediation for the originally scheduled mediation appointment. The parties will be seen by the next available mediator. If the parties are not seen on the appointed day, they will report to mediation on each consecutive court day at 8:00 a.m. until seen by an available mediator. The party who did not file the peremptory challenge may elect to participate in the mediation telephonically.

In the event a party has less than three court days notice of mediation appointment, the challenge may be filed no later than the day of the mediation appointment.

(Adopted 10-18-02, effective 1-1-03)

RULE 5.0060
APPEARANCE BY TELEPHONE FOR FAMILY LAW MATTERS

- A. In cases of extreme hardship, telephonic appearances may be made at all court appearances except trial. A telephonic appearance shall be made by prior arrangement with the Court and in the discretion of the judicial officer in whose department the matter is set.
- B. It is the party's responsibility to contact the Court no later than the court day prior to the hearing and provide a telephone number at which he or she can be contacted.
- C. On the morning of the hearing at the time the matter is called, the Court will place one telephone call to contact the party. The Court may proceed with the hearing in the event the Court cannot contact the party for any reason.

(Added 10-30-99; eff. 1-1-00)

RULE 5.0065

EX PARTE PROCEDURES IN FAMILY LAW MATTERS

- A. Orders Available Without Notice - Stay away and/or personal conduct orders that are requested in a domestic violence action or in a dissolution, legal separation, nullity, or paternity action may be obtained over the counter, without prior notice. Orders will be available the same day if paperwork is submitted by 2:00 p.m.
- B. Orders Requiring Notice - All other orders require at least 12 hours notice which shall be given on a court business day.
 - 1. Notice should be given to appear as directed by the assigned court. The notice given must describe the orders being sought.
 - 2. The moving papers must be submitted to the Family Law Examiner by 12:00 p.m. on the day before the hearing. Notice must be served no later than 8:00 p.m. These matters will be heard the following day at 8:30 a.m. Declarations shall not exceed five pages in total.
- C. Denial of Orders - Ex Parte applications may be denied for the following reasons (this list is not intended to be exhaustive):
 - 1. No notice or improper notice was given.
 - 2. The court's jurisdiction of the controversy is unclear.
 - 3. Pursuant to C.C.P. Section 527.8, the Court may not issue an order restraining speech or other activities that are constitutionally protected.
 - 4. The papers submitted fail to show irreparable harm, supported by a declaration setting forth a factual basis for the relief requested under the penalty of perjury.
 - 5. There is no reasonable cause to substantiate the harm alleged.
 - 6. The supporting declarations contain inadmissible hearsay to support the relief requested.
 - 7. Declarations contain ultimate facts, legal conclusions, or non-expert opinions.
 - 8. The declarations merely speculate as to irreparable harm.

9. Money damages are sufficient.
10. Mutual restraining orders are requested without an adequate showing.
11. The child is not in immediate and present danger of harm.
12. The Court will not stay wage assignments on an ex parte basis.
13. The Court will not release licenses that have been suspended for failure to pay support on an ex parte basis.

Sanctions may issue for frivolous ex parte applications.

- D. The Domestic Violence Calendar will take precedence over all other matters.

(Added 10-30-99; effective 1-1-00; amended 10-20-00, effective 1-1-01; amended 1-1-03; amended 4-25-03, effective 7-1-03)

RULE 5.0066

SET-ASIDE DEFAULT TO ALLOW THE FILING OF AN AMENDED PETITION

The Petitioner is required to file an Order to Show Cause and Declaration by way of ex parte to set-aside a default prior to filing an amended petition. The Order to Show Cause shall be processed administratively and routed to the assigned department for consideration.

Petitioner shall comply with CCP472 and CRC 121(d) service requirements.

(Adopted 5-20-05, effective 7-1-05)

RULE 5.0070

MANDATORY SETTLEMENT CONFERENCES

1. Before answering ready for a Mandatory Settlement Conference, parties (and/or attorneys) shall complete and exchange Preliminary Declarations of Disclosure and shall provide and file the Proof of Service of same with the court no later than the conference date.
2. Form(s) 1285.70, Property Declaration (community and separate if appropriate) with values and proposed division of all property in dispute shall be served on the opposing party at least fourteen (14) days prior to the Mandatory Settlement Conference date.
3. Failure to comply with the above procedures may result in all or some of the

following:

- a) The striking of the at-issue of the case,
 - b) Monetary sanctions,
 - c) Continuance of the Mandatory Settlement Conference.
4. In addition to the above, each Judicial Officer may develop and promulgate their own courtroom policies for the conduct of Mandatory Settlement Conferences.

(Added 10-30-99; eff. 1-1-00)

RULE 5.0075

COURT ORDERED CHILD CUSTODY EVALUATIONS

This rule is adopted in compliance with California Rules of Court, Rule 5.220: Uniform Standards of Practice for Court-Ordered Child Custody Evaluations.

1) Peremptory Challenges to Court Evaluators

- a) Court Employees: When a Court Evaluator is appointed, other than if the appointment is made in court when both parties are present, each side is permitted one peremptory challenge to the assigned evaluator within five (5) court days of receiving the written notification of assignment. The party's copy of the "Order Appointing Court Evaluator Pursuant to Family Code 3111" shall serve as written notice.
- b) Private Child Court Evaluators: When a private evaluator is appointed, other than by stipulation, each side will be permitted one peremptory challenge of a specific evaluator.

2) Withdrawal From a Case. An evaluator has the right to withdraw from a case upon a showing of good cause before the trial court that made the appointment.

3) Complaints Regarding Evaluators.

- a) Court Employees: Complaints regarding the conduct of and/or procedures employed by a child custody Evaluator appointed by the Court shall be sent to the Supervising Court Evaluator for review. If the complaint has been lodged about a court staff evaluator, the Supervising Court Evaluator shall determine what action, if any, shall be taken.
- b) Private Evaluators: Complaints regarding the conduct of and procedures employed by a private child custody evaluator appointed by the Court are the responsibility of

the trial court judicial officer who made the appointment and the appropriate professional licensing board. The trial court judge may determine what action, if any, should be taken.

- 4) Ex parte Communication. Absent a stipulation to the contrary, there shall be no ex parte communication between the attorneys for either party and a Court staff or private court-appointed evaluator or between the evaluator and the court, except with regard to the scheduling of appointments. Minor's counsel may exchange both oral and written ex parte communications with an Evaluator pursuant to Family Code 3151. No attorney or party to the action shall provide the evaluator with documents pertaining to the case without first providing the other side and any attorney of record for the child a copy of the document.
- 5) Child Custody Evaluators Compliance with Training
 - a) Court employees: The Court Evaluation Unit shall arrange for the Court Evaluator to complete the Domestic Violence training per California Rules of Court 5.230 prior to them submitting their first court report. The Court Evaluators shall comply with California Rules of Court 5.225.
 - b) Private Evaluators: Court appointed Child Custody Evaluators shall attach a copy of their certificate of completion of the initial 12 hours of advanced in person classroom instruction and the most recent 4 hour update training in Domestic Violence to each child custody evaluation report. Certificate of compliance with mandate for initial and updated training in Domestic Violence shall be a sine qua non requirement for the appointment by the court of any professional as a Child Custody Evaluator.

(Added 5-10-02, effective 7-1-02; CRC number corrected 1-1-07)

RULE 5.0080

FORMAL JUDGMENT AND ADDENDA TO JUDGMENT

All judgments submitted to the court for judicial review and approval will be prepared in a manner consistent with the specifications of this court policy. The Court requires that all terms of custody, visitation, property, child and spousal support be set forth in an addendum to the judgment. Attachments of copies of prior court orders, orders pursuant to referrals to mediation, or stipulations entered into prior to the judgment will not be accepted.

(Adopted 5-20-05, effective 7-1-05)